

UNITED STATES DISTRICT COURT

DISTRICT of MAINE

JOHN JAY CONDON
Plaintiff

v.
Rodney Bouffard, et al.,
Defendants.

Civil No.

1:16-cv-00372-JAW

2016 APR 16 P 2:31

Plaintiff's Opposing Statement of Additional Material Facts

Now comes the Plaintiff pursuant to Local Rule 56 (c) with his opposing statement of additional material facts as to which there is no dispute:

1. JOHN JAY CONDON HAS NEVER, AND WAS NEVER, CONVICTED BY A MAINE STATE PRISON (MSP) DISCIPLINARY BOARD or COMMITTEE of THREATENING TO KILL or HARM ANY MSP STAFF MEMBER. SEE DEFENDANT TROY ROSS'S RESPONSE TO PLAINTIFF'S FIRST SET of INTERVIEWED ("ROSS INTERVIEW") p. 3, # 11

2. DEFENDANT TROY ROSS STATED DEFINITELY THAT "(CONDON) THREATENED TO KILL MEMBERS of THE PRISON STAFF ON TWO SEPARATE OCCASIONS." ROSS INTERVIEW: pp 3-4, # 11.

3. CONDON HAS NEVER BEEN CONVICTED of ASSAULTING STAFF in his ENTIRE 36 YEARS in PRISON. SEE PLAINTIFFS Nov. 19, 2016, OPPOSITION TO MOTION TO DISMISS, APPENDIX 'A'.

4. THE CHIEF ADMINISTRATIVE OFFICER (THE WARDEN), OR DESIGNEE, SHALL MAKE THE DETERMINATION AS TO WHETHER JOHN JAY CONDON'S RETENTION ON AD. SEQ. STATUS IS JUSTIFIED. SEE: DEFENDANT'S AD. SEQ. POLICY MDOC 15.1, SECTION VI, PROCEDURE (C) (6). SEE ALSO DEFENDANT'S AD. SEQ. RECORDS, SECTION VI OF THE (14) AD. SEQ. STATUS REVIEW MINUTES.

5. DEFENDANT TROY ROSS ACTED AS DEFENDANT C.A.O AND WARDEN BONGBARD'S DESIGNEE ON EVERY ONE OF CONDON'S 14 AD. SEQ. REVIEWS. SEE: DEFENDANT'S AD. SEQ. RECORDS, SPECIFICALLY SECTION VI OF THE AD. SEQ. STATUS REVIEW MINUTES OF MARCH 10, 20, 27, APRIL 1, 14, 17, 23, MAY 2, 23, JUNE 11, 24, JULY 30, AUGUST 29, AND SEPTEMBER 29, 2014.

6. DEFENDANT TROY ROSS WAS THE ULTIMATE DECISION MAKER (UDM) ON CONDON'S LIBERTY STATUS ON EVERY ONE OF CONDON'S AD. SEQ. REVIEWS. Id. (#4 & 5)

7. DEFENDANT TROY ROSS NEVER ATTENDED ANY OF CONDON'S ASR'S. SEE: ROSS INTERVIEW PP 4-5, # 15.

8. DEFENDANT TROY ROSS OVERRULED THE MARCH 27, 2014, ASR BOARD'S RECOMMENDATION TO REMOVE CONDON FROM AD. SEQ. STATUS. SEE: SECTION VI OF THE MARCH 27, 2014, AD. SEQ. STATUS REVIEW MINUTES LOCATED IN DEFENDANT'S AD. SEQ. RECORDS.

9. CONDON COULD STILL APPEAL ANY RECOMMENDATION OF THE ASR BOARD AND/OR ANY ORACLE BY DEFENDANT DESIGNEE ROSS. SEE: DEFENDANT'S AD Seg. Policy MOOC #15.1, SECTION VI, PROCEDURE (C)(9).

10. THAT APPEAL MENTIONED IN #9 (ABOVE) IS "DECIDED" BY THE C.A.O. or "DESIGNEE." DEFENDANT "DESIGNEE" TRAY ROSS HANDLED THE APPEALS CONDON PRESENTED. Id. SEE ALSO THE MEMO'S of APRIL 17, MAY 2, AND MAY 12, FOR A SAMPLING of SOME of THE APPEAL DENIALS BY DEFENDANT ROSS LOCATED WITHIN DEFENDANT'S AD Seg. RECORDS.

11. DEDUCTIVE REASONING of PLAINTIFF'S ADDITIONAL MATERIAL FACTS #4 - 10 MAKES DEFENDANT TRAY ROSS THE SOLE ULTIMATE DECISION MAKER ON CONDON'S LIBERTY STATUS AND RENDERS THE MAINE STATE PRISON ADMINISTRATIVE SEGREGATION REVIEWS A HOLLOW FORMALITY OR A "SHAM."

12. ON September 8, 2014, DEFENDANT Deputy Commissioner Jody BRETON PERFORMED CONDON'S COMMISSIONER'S SIX MONTHLY REVIEW of AD. Seg. STATUS. SEE: DEFENDANT Jody BRETON'S RESPONSES TO PLAINTIFF'S FIRST SET of INTERROGATORIES ("BRETON INTERROG.") p.1, #3

13. MDOR policy 15.1 (ADMINISTRATIVE SEGREGATION) SECTION VI, PROCEDURE (C) (14) SPECIFICALLY STATES THAT THE COMMISSIONER SHALL DO THE REVIEW. THERE IS NO MENTION of A "DESIGNEE." THE COMMISSIONER HAS

THE AUTHORITY TO APPROVE OR DISAPPROVE THE RETENTION OF CAMON ON AD.SEG. STATUS FOR SIX MONTHS. SEE: DEFENDANT'S AD.SEG. POLICY MDOC 15.1, SECTION VI, PROCEDURE (C) (14).

14. ATTACHMENT I TO MDOC 15.1, VI, (C) (14) SPECIFICALLY LEADS "TO: COMMISSIONER" AND WHERE HE IS TO SIGN ATTACHMENT I EXPLICITLY LEADS: "SIGNATURE: COMMISSIONER." NOWHERE DOES IT MENTION ANYTHING ABOUT A "DESIGNEE." AND NEITHER DOES 15.1, VI, (C) (14) (MDOC) MENTION ANYTHING ABOUT A "DESIGNEE." SEE: DEFENDANT'S AD.SEG. RECORDS FOR THE SEPTEMBER 8, 2014, "ATTACHMENT I" OF COMMISSIONER'S SIX MONTHLY REVIEW OF AD.SEG. STATUS.

15. DEFENDANT JODY BRETON NEVER INTERVIEWED, QUESTIONED OR SAW PLAINTIFF CAMON WHEN SHE PERFORMED "HER REVIEW." SEE: BRETON INTERV. p.3, #7.

16. DEFENDANT JODY BRETON EXPLAINED IN A SEPTEMBER 30, 2014, LETTER TO CAMON THAT SHE BASED HER DECISION TO "APPROVE" CAMON'S SIX MONTH STAY (OF THE CONTINUATION OF IT) ON DEFENDANT WARDEN BOUFFARD'S "OPINION." SEE: PLAINTIFF'S NOVEMBER 19, 2016, OPPOSITION TO MOTION TO DISMISS, APPENDIX J (FOR A COPY OF THAT LETTER).

17. BACK TO "ATTACHMENT I" OF MDOC POLICY NO. 15.1, SECT. VI, (C) (14) AND ABOVE JODY BRETON'S SIGNATURE WHERE THE COMMISSIONER IS SUPPOSED TO SIGN, IT IS WRITTEN (THE) REASON FOR HER DECISION. SHE LEFT THAT "BLANK." SEE: DEFENDANT'S AD.SEG. RECORDS FOR SEPT. 8, 2014, ATTACHMENT I.

18. DEFENDANT Jody Bretan, when performing THE COMMISSIONER'S SIX MONTHLY AD. SEG. STATUS REVIEW of John Jay Condon when ASKED IF SHE INTERVIEWED THE HEAD of THE INFAMOUS "IPS INVESTIGATION" THAT WAS THE BASIS FOR HOLDING CONDON ON AD SEG. CONFINEMENT FOR 200 DAYS (AND STILL AN ON-GOING INVESTIGATION), STATED SHE COULDN'T RECALL IF SHE DID or SHE DIDN'T. SEE: BRETAN INTERVOW. PP 4-5, #12.

19. DEFENDANT Jody Bretan ASKED IF SHE, AS A REVIEWER of CONDON'S SIX MONTH INCARCERATION IN SMU ON AD. SEG. STATUS, THOUGHT A STILL ON-GOING 200 DAY OLD INVESTIGATION INTO WHETHER CONDON SAID SOMETHING "THREATENING" TOWARDS A MSP STAFF MEMBER DURING AN INMATE-IN-CELL "RAP" SESSION WAS A BIT ODD or UNUSUAL or perhaps A RUSE, A TACTIC OR A "PRETEXT" TO HOLD CONDON ON AD SEG. STATUS INDEFINITELY, STATED: SHE DIDN'T KNOW. SEE: BRETAN INTERVOW. P. 5, #18.

20. DEFENDANT Jody Bretan, ASKED HOW MUCH TIME SHE SPENT REVIEWING CONDON'S SIX MONTH AD. SEG. CONFINEMENT ANSWERED! SHE COUL NOT RECALL HOW MUCH TIME SHE SPENT ON IT. SEE: BRETAN INTERVOW P 4, #11.

APRIL 16, 2018.

JOHN JAY CONDON

John J. Condon pres
#148840

→ Certificate of Service →

THE UNDERSIGNED HEREBY CERTIFIES THAT HE SERVED THE ABOVE DOCUMENT AND ALL ATTACHMENTS BY 1st CLASS MAIL TO: JAMES E. FORTIN, A.A.G. Officer of The Atty General 6 STATE HSE. STATION, AUGUSTA, MAINE 04333

APRIL 16, 2018

• c.

John J. Condon